

Message Text

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ACTION STR-07

INFO OCT-01 IO-13 ISO-00 AF-10 ARA-10 EA-10 EUR-12
NEA-10 STRE-00 AGRE-00 CEA-01 CIAE-00 COME-00
DODE-00 EB-08 FRB-03 H-01 INR-10 INT-05 L-03
LAB-04 NSAE-00 NSC-05 PA-01 CTME-00 AID-05 SS-15
ITC-01 TRSE-00 ICA-11 SP-02 SOE-02 OMB-01 DOE-15
OIC-02 /168 W
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TO SECSTATE WASHDC PRIORITY 2863
INFO AMEMBASSY BRUSSELS
AMEMBASSY OTTAWA
AMEMBASSY TOKYO

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USMTN, USEEC

ACTION STR FOR MATTHEISEN

STR PASS CODEL

EO 11652: N/A
TAGS: MTN, ETRD, BE, CA, JA
SUBJECT: POST-JULY 15 SAFEGUARD DEVELOPMENTS

REF: GENEVA 9886, 10226

1. SUMMARY: FOLLOWING ISSUANCE OF THE "FRAMEWORK OF UNDERSTANDING" IN MID-JULY, U.S. DEL MET 3 TIMES WITH THE "GROUP OF 7" DCS IN ATTEMPT TO CLEAN UP PORTIONS OF THE DRAFT INTEGRATED TEXT AND NARROW SOME DIFFERENCES. U.S. AND JAPAN ALSO MET WITH LDC GROUP FOR INFORMAL DISCUSSIONS ON CHAPTER 4 (MFN/SELECTIVITY) AND TO PRESS LDCS TO
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PARTICIPATE IN NEGOTIATIONS ON REALISTIC BASIS; EC SUBSEQUENTLY HAD SIMILAR SESSION WITH LDCS, WITH SOME APPARENT PROGRESS. THIS CABLE REPORTS ON FIRST SET OF MEETINGS, SEPTTEL REPORTS DISCUSSION WITH LDCS. END SUMMARY.

2. GROUP 7 DC DELS MET IN 3 SESSIONS JULY 24 AND 25, TO REVIEW POSSIBILITIES FOR CONSOLIDATING, "DE-BRACKETING"

DRAFT INTEGRATED SAFEGUARDS TEXT. U.S., JAPAN ARGUED ENOUGH CLEAN-UP COULD BE DONE TO WARRANT REVISED VERSION OF DRAFT INTEGRATED TEXT (MTN/SG/W/39) BEFORE SUMMER BREAK. EC BALKED AT THIS ON GROUNDS THAT MEMBER STATES HAVE STILL NOT FULLY DIGESTED ORIGINAL DOCUMENT, BUT OFFERED TO PARTICIPATE IN SOME PIECEMEAL DRAFTING AND DISCUSSION OF MAJOR AREAS OF DIFFERENCE AT CONCEPTUAL LEVEL. OTHER DELS NEITHER OPPOSED TO NOR ENTHUSIASTIC ABOUT REVISED DRAFT SUGGESTION. FOLLOWING PARAGRAPHS SUMMARIZE DISCUSSION IN MAIN AREAS (FYI: ALL DRAFTING RESULTS BEING HAND CARRIED TO MATTHEISEN, STR, BY MARK. END FYI).

3. CHAPTER 3 (RESPONSE TO SAFEGUARD ACTION). U.S. DEL CIRCULATED A JOINT U.S.-CANADIAN CONSOLIDATED TEXT COMBINING ALTERNATIVES 1 AND 2 BUT LEAVING INTACT SUBSTANCE OF EACH ALTERNATIVE. THIS TEXT WAS FURTHER SIMPLIFIED IN GROUP DISCUSSION BY CONVERTING SOME PARAGRAPHS TO EXPLANATORY NOTES. ASIDE FROM CONTINUED CANADIAN DIFFICULTY IN EXPLAINING "ADVERSE IMPACT" (TRADE COVERAGE) CONCEPT AS GAUGE FOR RETALIATION, ATTENTION FOCUSED PRINCIPALLY (AND FOR FIRST TIME) ON NATURE AND TIMING OF ANY COMMITTEE REVIEW OF RETALIATORY ACTIONS. BOTH JAPAN AND EC QUESTIONED WHETHER REVIEW WOULD BE OF LEVEL OF RETALIATION ONLY, OR WOULD INCLUDE JUSTIFICATION FOR RETALIATION ITSELF; THEY ASSERTED THAT PRESENT CPS' "DISAPPROVAL" FUNCTION IN LIMITED OFFICIAL USE

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XIX: 3(A) COVERED ONLY LEVEL. CANADA AND U.S. ARGUED THAT WAS EXCESSIVELY NARROW READING OF XIX, AND THAT CONFINING COMMITTEE REVIEW OF RETALIATION TO ONLY THE DEGREE OF SEVERITY WOULD BE INAPPROPRIATE. GROUP ALSO DEBATED (INCONCLUSIVELY) WHETHER PRESENT XIX PROVISIONS DO (AND FUTURE CODE SHOULD) ENVISAGE PRIOR REVIEW OF PROPOSED RETALIATION, OR ONLY EX POST. U.S. AND CANADA NOTED THAT 30-DAYS' NOTICE REQUIRED BY XIX MADE IT CLEAR THAT OPTION OF PRIOR CPS' REVIEW ALREADY EXISTED. NORDIC REP SAID HE HAD NO MAJOR PROBLEM WITH REFORMULATED DRAFT, ADDING THAT "TRADE COVERAGE" CONCEPT MIGHT BE APPROPRIATE METHOD OF DETERMINING PERMISSIBLE RETALIATION LEVELS IN CASE OF SELECTIVE ACTIONS. EC AND JAPAN BOTH THOUGHT CONSOLIDATED TEXT WOULD HELP FORCE THEIR AUTHORITIES TO FOCUS ON THE ISSUE.

4. CHAPTER 4 (MFN/SELECTIVITY): EC CAUTIONED DELS THAT ITS "LEFT-HAND COLUMN" FORMULATION DID NOT FULLY REFLECT EC POSITION SUBSEQUENTLY ADOPTED BY JUNE 27 LUXEMBOURG COUNCIL SESSION. SPECIFICALLY, ABBOTT MADE CLEAR THAT (CONTRARY TO HIS PARA. 6) WHERE CRITICAL CIRCUMSTANCES EXIST AT OUTSET INVOKING COUNTRY SHOULD HAVE NO OBLIGATION

TO UNDERTAKE ANY PRIOR CONSULTATIONS. AS A "SMALL ELABORATION," HOWEVER, HE STATED EC WOULD ENVISAGE FOLLOWING 4-STEP SEQUENCE FOR CRITICAL CIRCUMSTANCES ACTION (WHETHER SELECTIVE OR ON MFN BASIS): (1) DECISION BY GOVERNMENTAL ENTITY THAT SAFEGUARD ACTION NECESSARY AND, IN CERTAIN CASES, THAT SELECTIVE ACTION APPROPRIATE; (2) AFTER PROVISIONAL ACTION TAKEN, IMMEDIATE REFERRAL TO MULTILATERAL BODY FOR EXPEDITIOUS EXAMINATION, CONSULTATIONS; (3) MULTILATERAL REVIEW TO CONCLUDE WITHIN ONE MONTH OR LESS; (4) OBLIGATORY REVIEW OF ACTION BY INVOKING GOVERNMENT IN THE LIGHT OF CONCLUSIONS BY MULTILATERAL BODY (WHICH WOULD, OF COURSE, NOT BE BINDING JUDGMENTS). ABBOTT AGAIN STATED THAT COMMITTEE VIEWS, WHILE NOT OF MANDATORY FORCE, WOULD CARRY HEAVY POLITICAL WEIGHT AND LIMITED OFFICIAL USE

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INFO OCT-01 STRE-00 IO-13 OIC-02 ISO-00 AF-10 ARA-10
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DOE-15 /168 W

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TO SECSTATE WASHDC PRIORITY 2864
INFO AMEMBASSY BRUSSELS
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REPEATED THEY SHOULD TRIGGER OBLIGATORY NATIONAL GOVERNMENT REVIEW.

5. NORDICS OBSERVED THAT FOUR-STEP PROCESS NOTED ABOVE ACCORDS EXACTLY WITH THEIR THINKING ON SUBJECT. ABBOTT SAID SUCH PROCEDURE WOULD PARALLEL PRESENT EC REGULATION WHEREIN MEMBER STATES AFTER INTERNAL CONSULTATION WITH EC COMMISSION (BUT NO EXTERNAL CONSULTATION) MAY ACT ON PROVISIONAL BASIS SUBJECT TO COUNCIL RATIFICATION. WE CALLED GROUP'S ATTENTION TO RECENT REPORTS THAT AMENDMENTS TO EC REGULATIONS IN PROSPECT WHICH WOULD PERMIT UNILATERAL ACTION BY MEMBER STATES WITHOUT EVEN PRIOR INTERNAL CON- LIMITED OFFICIAL USE

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SULTATION WITH COMMISSION. ABBOTT CONFIRMED SOME CHANGES AHRE CR OFFING BUT NOT YET VLEAR JUST WHAT THEY WOULD BE; HE OFFERED ASSURANCE THAT IF AMENDMENJ TURNED OUT AS U.S. DESCRIBED, COMMISSION WAS CONFIDENT IT COULD CONTROL ANY RISKS THAT MIGHT ENSNE.

6. CHAPTER 4 BIS (EXPORT RESTRAINTS): U.S. DISTRIBUTED SLIGHTLY REVISED FORMULATION OF 4 BIS, NOTING THAT BRACKETS REMOVED FROM CHAPTER TITLE, FOOTNOTE ADDED TO MAKE CLEAR THAT PRIVATE BUSINESS DECISIONS WITHOUT GOVERNMENT INVOLVE- MENT WERE NOT ENVISAGED TO BE COVERED, BUT THAT ALL ARRANGE- MENTS WITH ANY GOVERNMENT ROLE BE SUBJECT TO ALL OBLI- GATIONS (INCLUDING NOTIFICATION, CONSULTATION). JAPAN RESPONDED THAT WHENEVER REVISED W/39 ISSUED, IT COULD AGREE TO DELETING BRACKETS AROUND TITLE BUT THAT SUBJECT WAS STILL UNDER REVIEW IN TOKYO; NEW FORMULATION HOWEVER, WAS A DEFINITE IMPROVEMENT. (FYI: NOGAMI HAS PRIVATELY INDI- CATED THAT JAPANESE ULTIMATELY MAY BE ABLE TO GO ALONG WITH NEW LANGUAGE, AND THAT INFORMAL CIRCULATION NOW WILL HELP MOVE THEM IN THAT DIRECTION. HE SAYS JAPAN "MADE A CON- CESSION" ON THIS IN THE 13 JULY 'FRAMEWORK OF UNDERSTANDING', SO SOME MOVEMENT SHOULD BE MANAGEABLE ON TEXTS. END FYI). SWITZERLAND CALLED REFORMULATION AN IMPROVEMENT AND SAID IT FAVORS EVEN MORE EXTENSIVE TREATMENT OF COVERAGE ISSUE IN THE TEXT. SWISS WERE AGAIN (*) REASSESSING THEIR POSITION ON SELECTIVITY AT REQUEST OF NEW SWISS MINISTER WHO HAS SOME DEFINITE IDEAS (NO ELABORATION). NORDIC DELEGATION ALSO CALL REFORMULATION AN IMPROVEMENT, SAYING ALL BRACKETS SHOULD BE REMOVED.

7- CHAPTER 6 (SURVEILLANCE, DISPUTE SETTLEMENT). AS BASIS FOR SORTING OUT DISAGREEMENTS, CANADA AND EC PRESENTED JOINTLY PREPARED OUTLINE OF FUNCTIONS FOR SAFEGUARDS COM-

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MITTEE WITHOUT REFERENCE TO WHETHER THEY NECESSITATED DELEGATING GATT CP FUNCTIONS TO COMMITTEE. EXTENSIVE REDRAFT RESULTED FROM DISCUSSION IN GROUP. JAPAN SUGGESTED IN PASSING THAT SAFEGUARD CODE MIGHT NEED TO BE OF LIMITED LIFETIME WITH SPECIFIC PROVISION FOR MAJOR REVIEW AND EXTENSION/MODIFICATION (A LA MFA). EC SAID IT COULD CONSIDER THIS APPROACH, BUT WE RESISTED IDEA OF EXPIRING AGREEMENT SAYING OBJECTIVE SHOULD BE DEFINITIVE INTERPRETATION OF ARTICLE XIX. JAPAN RESPONDED THAT ITS SUGGESTION MIGHT BE A USEFUL INCENTIVE FOR LDC PARTICIPATION. MOST ATTENTION FOCUSED ON DISPUTE SETTLEMENT SECTION, ESP. ROLE OF PANEL. AFTER MUCH DISCUSSION DELS AGREED TO COMMITTEE PRESENTATION AFFIRMING SIGNATORY'S RIGHT TO COMMITTEE REVIEW OF AN ISSUE, INCLUDING (IN PARENTHESES) AVAILABILITY OF A PANEL, TOGETHER WITH FOOTNOTE THAT WORDING DOES NOT PREJUDICE OUTCOME OF GENERAL NEGOTIATIONS ON DISPUTE SETTLEMENT (SPECIFIC REFERENCE TO INF/29/REV.1). ABBOTT INFORMED US THAT NEXT DAY THAT PRELIMINARY REACTION OF MEMBER STATE REPS TO THIS DRAFT WAS THAT "IT WENT TOO FAR," -- BUT THIS DID NOT REPRESENT DEFINITIVE REJECTION, AND HE WOULD TRY TO GET SOME KIND OF OK IN EARLY SEPTEMBER TO USE IT FOR FURTHER WORK. (COMMENT: WE AND MOST OTHER DELS BELIEVE OUTLINE IS GOOD BASIS FOR DEVELOPING AGREED LANGUAGE WITH MINIMAL BRACKETS TO REPLACE CURRENT CHAPTER 6.).

8. CHAPTER 7 (DOMESTIC PROCEDURES). WE CIRCULATED CLEANED-UP VERSION OF NEW CONSOLIDATED CHAPTER 7 RECENTLY DRAFTED INFORMALLY BY U.S. AND JAPAN. BRIEF ENSUING DISCUSSION YIELDED NO NEW POINTS (BUT MANY OF SAME OLD ONES). DEL COMMENTS HOWEVER, SEEMED TO INDICATE THAT THE REAL PROBLEMS WERE ON PARTICULAR DETAILS AND NOT OVERALL CONCEPT OF GUIDELINES ON DOMESTIC PROCEDURES. JAPAN INDICATED IT MIGHT WANT TO COME BACK LATER TO QUESTION OF INITIATION OF INVESTIGATION (I.E., BY PETITION OR OTHERWISE) ON WHICH NEW DRAFT WAS SILENT.

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9. FUTURE WORK PLANS: FIRST POST-BREAK MEETING OF GROUP OF 7 DC DELS SCHEDULED FOR SEPTEMBER 12 WHEN QUESTION OF ISSUING REVISED DOCUMENT WILL AGAIN BE ADDRESSED. INFORMAL DC/LDC SESSION TENTATIVELY SCHEDULED FOR SEPTEMBER 13 OR

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EUR-12 NEA-10 AGRE-00 CEA-01 CIAE-00 COME-00
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POSSIBLY LATER DATE PRIOR TO MEETING OF FULL SAFEGUARDS
GROUP SCHEDULED FOR SEPTEMBER 20. PERHAPS REACTING TO OUR
REPEATED PRIVATE URGING, ABBOTT HELPFULLY VOLUNTEERED VIEW
THAT WHILE RESOLUTION OF SELECTIVITY ISSUES COULD NOT BE
EXPECTED UNTIL END OF DAY, SOME METHOD SHOULD BE DEVELOPED
IN SEPTEMBER TO PROCEED WITH REFINING OTHER PARTS OF TEXT
WHILE DISCUSSION CONTINUES ON CHAPTER 4.

10. DRAFTED BY ADDUCI/HARTZELL. MCDONALD

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: NUCLEAR SAFEGUARDS, POLITICAL SUMMARIES
Control Number: n/a
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Draft Date: 03 aug 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
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Status: NATIVE
Subject: POST-JULY 15 SAFEGUARD DEVELOPMENTS
TAGS: ETRD, BE, CA, JA, US, MTN
To: STATE
Type: TE
vdkgvwkey: odhc://SAS/SAS.dbo.SAS_Docs/1a1e0358-c288-dd11-92da-001cc4696bcc
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